



Sen. Ira I. Silverstein

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LRB098 03641 RLC 45080 a

1 AMENDMENT TO HOUSE BILL 804

2 AMENDMENT NO. _____. Amend House Bill 804 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Section 11-0.1 and by adding Section 11-9.1B as
6 follows:

7 (720 ILCS 5/11-0.1)

8 Sec. 11-0.1. Definitions. In this Article, unless the
9 context clearly requires otherwise, the following terms are
10 defined as indicated:

11 "Accused" means a person accused of an offense prohibited
12 by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of
13 this Code or a person for whose conduct the accused is legally
14 responsible under Article 5 of this Code.

15 "Adult obscenity or child pornography Internet site". See
16 Section 11-23.

1 "Advance prostitution" means:

2 (1) Soliciting for a prostitute by performing any of
3 the following acts when acting other than as a prostitute
4 or a patron of a prostitute:

5 (A) Soliciting another for the purpose of
6 prostitution.

7 (B) Arranging or offering to arrange a meeting of
8 persons for the purpose of prostitution.

9 (C) Directing another to a place knowing the
10 direction is for the purpose of prostitution.

11 (2) Keeping a place of prostitution by controlling or
12 exercising control over the use of any place that could
13 offer seclusion or shelter for the practice of prostitution
14 and performing any of the following acts when acting other
15 than as a prostitute or a patron of a prostitute:

16 (A) Knowingly granting or permitting the use of the
17 place for the purpose of prostitution.

18 (B) Granting or permitting the use of the place
19 under circumstances from which he or she could
20 reasonably know that the place is used or is to be used
21 for purposes of prostitution.

22 (C) Permitting the continued use of the place after
23 becoming aware of facts or circumstances from which he
24 or she should reasonably know that the place is being
25 used for purposes of prostitution.

26 "Agency". See Section 11-9.5.

1 "Arranges". See Section 11-6.5.

2 "Bodily harm" means physical harm, and includes, but is not
3 limited to, sexually transmitted disease, pregnancy, and
4 impotence.

5 "Care and custody". See Section 11-9.5.

6 "Child care institution". See Section 11-9.3.

7 "Child pornography". See Section 11-20.1.

8 "Child sex offender". See Section 11-9.3.

9 "Community agency". See Section 11-9.5.

10 "Conditional release". See Section 11-9.2.

11 "Consent". See Section 11-1.70.

12 "Custody". See Section 11-9.2.

13 "Day care center". See Section 11-9.3.

14 "Depict by computer". See Section 11-20.1.

15 "Depiction by computer". See Section 11-20.1.

16 "Disseminate". See Section 11-20.1.

17 "Distribute". See Section 11-21.

18 "Family member" means a parent, grandparent, child, aunt,
19 uncle, great-aunt, or great-uncle, whether by whole blood,
20 half-blood, or adoption, and includes a step-grandparent,
21 step-parent, or step-child. "Family member" also means, if the
22 victim is a child under 18 years of age, an accused who has
23 resided in the household with the child continuously for at
24 least 6 months.

25 "Force or threat of force" means the use of force or
26 violence or the threat of force or violence, including, but not

1 limited to, the following situations:

2 (1) when the accused threatens to use force or violence
3 on the victim or on any other person, and the victim under
4 the circumstances reasonably believes that the accused has
5 the ability to execute that threat; or

6 (2) when the accused overcomes the victim by use of
7 superior strength or size, physical restraint, or physical
8 confinement.

9 "Harmful to minors". See Section 11-21.

10 "Loiter". See Section 9.3.

11 "Material". See Section 11-21.

12 "Minor". See Section 11-21.

13 "Nudity". See Section 11-21.

14 "Obscene". See Section 11-20.

15 "Part day child care facility". See Section 11-9.3.

16 "Penal system". See Section 11-9.2.

17 "Person responsible for the child's welfare". See Section
18 11-9.1A.

19 "Person with a disability". See Section 11-9.5.

20 "Playground". See Section 11-9.3.

21 "Probation officer". See Section 11-9.2.

22 "Produce". See Section 11-20.1.

23 "Profit from prostitution" means, when acting other than as
24 a prostitute, to receive anything of value for personally
25 rendered prostitution services or to receive anything of value
26 from a prostitute, if the thing received is not for lawful

1 consideration and the person knows it was earned in whole or in
2 part from the practice of prostitution.

3 "Public park". See Section 11-9.3.

4 "Public place". See Section 11-30.

5 "Reproduce". See Section 11-20.1.

6 "Sado-masochistic abuse". See Section 11-21.

7 "School". See Section 11-9.3.

8 "School official". See Section 11-9.3.

9 "Sexual abuse". See Section 11-9.1A.

10 "Sexual act". See Section 11-9.1.

11 "Sexual conduct" means any knowing touching or fondling by
12 the victim or the accused, either directly or through clothing,
13 of the sex organs, anus, or breast of the victim or the
14 accused, or any part of the body of a child under 13 years of
15 age, or any transfer or transmission of semen by the accused
16 upon any part of the clothed or unclothed body of the victim,
17 for the purpose of sexual gratification or arousal of the
18 victim or the accused.

19 "Sexual excitement". See Section 11-21.

20 "Sexual penetration" means any contact, however slight,
21 between the sex organ or anus of the victim or the accused ~~one~~
22 ~~person~~ and an object or body part, including but not limited
23 to, ~~or~~ the sex organ, mouth, or anus of the victim or the
24 accused ~~another person~~, or any intrusion, however slight, of
25 any part of the body of the victim or the accused ~~one person~~ or
26 of any animal or object into the sex organ or anus of the

1 victim or the accused ~~another person,~~ including, but not
2 limited to, cunnilingus, fellatio, or anal penetration.
3 Evidence of emission of semen is not required to prove sexual
4 penetration.

5 "Solicit". See Section 11-6.

6 "State-operated facility". See Section 11-9.5.

7 "Supervising officer". See Section 11-9.2.

8 "Surveillance agent". See Section 11-9.2.

9 "Treatment and detention facility". See Section 11-9.2.

10 "Victim" means a person alleging to have been subjected to
11 an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40,
12 11-1.50, or 11-1.60 of this Code.

13 (Source: P.A. 96-1551, eff. 7-1-11.)

14 (720 ILCS 5/11-9.1B new)

15 Sec. 11-9.1B. Failure to report sexual abuse of a child.

16 (a) For the purposes of this Section:

17 "Child" means any person under the age of 13.

18 "Sexual abuse" means any contact, however slight, between
19 the sex organ or anus of the victim or the accused and an
20 object or body part, including but not limited to, the sex
21 organ, mouth, or anus of the victim or the accused, or any
22 intrusion, however slight, of any part of the body of the
23 victim or the accused or of any animal or object into the sex
24 organ or anus of the victim or the accused, including, but not
25 limited to, cunnilingus, fellatio, or anal penetration.

1 Evidence of emission of semen is not required to prove sexual
2 abuse.

3 (b) A person over the age of 18 commits failure to report
4 sexual abuse of a child when he or she personally observes
5 sexual abuse, as defined by this Section, between a person who
6 he or she knows is over the age of 18 and a person he or she
7 knows is a child, and knowingly fails to report the sexual
8 abuse to law enforcement.

9 (c) This Section does not apply to a person who makes
10 timely and reasonable efforts to stop the sexual abuse by
11 reporting the sexual abuse in conformance with the Abused and
12 Neglected Child Reporting Act or by reporting the sexual abuse
13 or causing a report to be made, to medical or law enforcement
14 authorities or anyone who is a mandated reporter under Section
15 4 of the Abused and Neglected Child Reporting Act.

16 (d) A person may not be charged with the offense of failure
17 to report sexual abuse of a child under this Section until the
18 person who committed the offense is charged with criminal
19 sexual assault, aggravated criminal sexual assault, predatory
20 criminal sexual assault of a child, criminal sexual abuse, or
21 aggravated criminal sexual abuse.

22 (e) It is an affirmative defense to a charge of failure to
23 report sexual abuse of a child under this Section that the
24 person who personally observed the sexual abuse had a
25 reasonable apprehension that timely action to stop the abuse
26 would result in the imminent infliction of death, great bodily

1 harm, permanent disfigurement, or permanent disability to that
2 person or another in retaliation for reporting.

3 (f) Sentence. A person who commits failure to report sexual
4 abuse of a child is guilty of a Class A misdemeanor for the
5 first violation and a Class 4 felony for a second or subsequent
6 violation.

7 (g) Nothing in this Section shall be construed to allow
8 prosecution of a person who personally observes the act of
9 sexual abuse and assists with an investigation and any
10 subsequent prosecution of the offender."